

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200918017**
Release Date: 5/1/2009

Third Party Communication: None
Date of Communication: Not Applicable
Person To Contact:

Index Number: 7701.00-00, 9100.00-00,
9100.31-00

, ID No.
Telephone Number:

Refer Reply To:
CC:PSI:B03
PLR-139813-08
Date:
January 15, 2009

LEGEND

Company =

Country =

Date 1

Date 2 =

Dear :

This letter responds to a letter dated September 10, 2008, submitted on behalf of Company by its authorized representative, requesting that the Service grant Company an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to elect to be treated as a partnership under § 301.7701-3 effective Date 2.

FACTS

Company was established under the laws of Country on Date 1. Company represents that, since Date 2, it has been a foreign entity eligible to elect to be classified as a partnership for federal tax purposes. Company intended to be classified as a partnership effective Date 2, however, Form 8832, Entity Classification Election, was not timely filed due to inadvertence.

LAW

Section 301.7701-3(a) provides that a business entity that is not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8) is an eligible entity and may elect its classification for federal tax purposes. An eligible entity with at least two members can elect to be classified as either an association (and thus a corporation under § 301.7701-2(b)(2)) or a partnership.

Section 301.7701-3(b)(2)(i) provides, in general, that unless the entity elects otherwise, a foreign eligible entity is: (A) a partnership if it has two or more members and at least one member does not have limited liability; (B) an association if all members have limited liability; or (C) disregarded as an entity separate from its owner if it has a single owner that does not have limited liability.

Section 301.7701-3(c)(1)(i) provides, in part, that an eligible entity may elect to be classified other than as provided in § 301.7701-3(b), or to change its classification, by filing Form 8832.

Section 301.7701-3(c)(1)(iii) provides that a § 301.7701-3(c)(1)(i) election will be effective on the date specified by the entity on Form 8832 or on the date filed if no date is specified on the election form. The effective date specified on Form 8832 cannot be more than 75 days prior to the date on which the election is filed and cannot be more than 12 months after the date on which the election is filed.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time, under the rules set forth in §§ 301.9100-2 and 301.9100-3, to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad) under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I. Section 301.9100-1(b) defines a regulatory election to include an election with a due date that is prescribed by a regulation published in the Federal Register.

Section 301.9100-2 provides the rules governing automatic extensions of time for making certain elections. Section 301.9100-3 provides the standards that the Commissioner will use to determine whether to grant an extension of time for regulatory elections that do not meet the requirements of § 301.9100-2.

Section 301.9100-3(a) provides that requests for relief subject to § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

CONCLUSION

Based on the facts submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, Company is granted an extension of time of sixty (60) days from the date of this letter to elect to be classified as a partnership for federal tax purposes effective Date 2. The election should be made by filing Form 8832 with the appropriate service center. A copy of this letter should be attached to the election.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for a ruling, it is subject to verification on examination.

Sincerely,

/s/

Curtis G. Wilson
Deputy Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2)

Copy of this letter
Copy for § 6110 purposes

cc: